

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION**

**MARK MCEVOY, JAMES
TAWNEY AND SUSAN
TAWNEY, SAMUEL STARK,
SUSAN DENNISON, MARK GOFF,
and CAROL DELROSSO AND
GEORGE DELROSSO, BENJAMIN
PATTERSON, CHAD AND
MICHELLE SILVESTER, CLINTON
AND CANDACE DRAINER IRREVOCABLE
TRUST, EBEN FRITTS and EBEN FRITTS iii
GARY WENTZ, HEIDI DEEM, JEFFERY L.
SALTIS and KELLIE D. SALTIS, LANE and
MINERVA EVANS, MAYNARD and
JENNIFER TANNER, JOAN MEDLEY,
JACOB and REGINA COLLETTE,
SCOTT CORCORAN, KATHY JOHNSON,
and CHRISTINE COCHRAN individually and
on behalf of a proposed class,**

Plaintiffs,

v.

CIVIL ACTION NO. 5:22-cv-171-JPB

**DIVERSIFIED ENERGY COMPANY PLC,
DIVERSIFIED GAS & OIL, PLC,
DIVERSIFIED PRODUCTION LLC,
DIVERSIFIED GAS & OIL CORPORATION,
DIVERSIFIED OIL AND GAS LLC,
ALLIANCE PETROLEUM CORPORATION,
EQT PRODUCTION COMPANY,
EQT PRODUCTION HTW, LLC,
EQT ENERGY LLC,
EQT INVESTMENT HOLDINGS, LLC,
EQT GATHERING, LLC
EQM MIDSTREAM PARTNERS LP,
EQT MIDSTREAM PARTNERS LP,
EQT GP HOLDINGS, LP,
and
EQT CORPORATION,**

Defendants.

**MOTION ON BEHALF OF CHESTER C. DODD, JR., KATHRYN M. HUNT, AND
LINDA DODD FLUHARTY TO INTERVENE AS DEFENDANTS**

Pursuant to Rule 24 of the Federal Rules of Civil Procedure, Chester C. Dodd, Jr., Kathryn M. Hunt, and Linda Dodd Fluharty (“Intervening Defendants”), move the Court to intervene as Defendants in the above-captioned matter for the reasons detailed herein as well as those detailed in the accompanying memorandum.

1. The Intervening Defendants are West Virginia mineral owners whose interests would be impaired and/or terminated as a result of Plaintiffs’ claims seeking, in part, to plug thousands of alleged abandoned gas wells in West Virginia. Specifically, if a disposition is rendered in favor of the Plaintiffs and the subject gas wells are plugged, the Intervening Defendants would be deprived of further royalties by way of gas wells that are still producing or that can be rehabilitated. The Intervening Defendants’ specific mineral interests in the subject wells are identified in the accompanying memorandum.

2. Based upon the Intervening Defendants’ material interest in the subject gas wells that are still producing or that can be rehabilitated to produce further royalties remaining unplugged, and the allegations set forth in the *Third Amended Class Action Complaint* [Doc. 322], the Intervening Defendants have a direct interest in the outcome of this matter such that they are entitled to an intervention by right, pursuant to Fed. R. Civ. P. 24(a). *See Wellman v. Energy Res., Inc.*, 210 W. Va. 200, 212, 557 S.E.2d 254, 266 (2001) (“all parties who are interested in the property have an interest in the well”).

3. Allowing intervention to the Intervening Defendants will not unduly delay or prejudice any of the parties in this matter, inasmuch as the Intervening Defendants are willing to abide by and be prepared for resolution of this matter in accordance with the deadlines established in the Court’s June 5, 2023, *Amended Scheduling Order* [Doc. 307]. However, if the intervention

of the Intervening Defendants causes any of the other parties, or the Court, to believe the *Amended Scheduling Order* [Doc. 307] should be amended to extend any or all deadlines, the Intervening Defendants do not object to the amendment of the *Amended Scheduling Order* [Doc. 307].

4. Allowing the intervention of the Intervening Defendants will not destroy diversity jurisdiction of the Court in this matter pursuant to 28 U.S.C. § 1332(d) and the Class Action Fairness Act. The *Third Amended Class Action Complaint* [Doc. 322] states that “Plaintiffs are individuals and one irrevocable trust who own property in West Virginia.” [Doc. 322 at p. 6, ¶ 19]. Further, the *Third Amended Class Action Complaint* [Doc. 322] provides that “Defendants are corporate entities and/or partnerships that are not citizens of West Virginia. [Doc. 322 at p. 6, ¶ 20]. The Intervening Defendants are individuals who own mineral interests in West Virginia. The minimal diversity requirement of the Class Action Fairness Act would continue to be satisfied even if the Intervening Defendants are joined as Defendants in this matter because at least one Plaintiff is a resident from a state that is different from at least one Defendant.

5. In accordance with Fed. R. Civ. P. 24(c), the proposed responsive pleading of the Intervening Defendants to the *Third Amended Class Action Complaint* [Doc. 322], *Intervening Defendants’ Joinder in Defendants’ Motion to Dismiss Third Amended Complaint* [Doc. 338] is attached as **Exhibit A**.

6. In the event that the Court grants this Motion, the Intervening Defendants respectfully request that their proposed responsive pleading be deemed filed on the date of the entry of the Order granting this Motion by the Court; that the Court direct the caption and style of the case be amended to reflect the addition of the Intervening Defendants as Defendants in this matter; and such other and further relief as the Court may deem appropriate.

**CHESTER C. DODD, JR.,
KATHRYN M. HUNT, and LINDA
DODD FLUHARTY**
Intervening Defendants.

By: Patrick S. Casey
Counsel for Intervening Defendants

Patrick S. Casey (WVSB #668)
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I hereby certify that on the 20th day of July, 2023, I electronically filed the foregoing MOTION ON BEHALF OF CHESTER C. DODD, JR., KATHRYN M. HUNT, AND LINDA DODD FLUHARTY TO INTERVENE AS DEFENDANTS with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel of record.

**CHESTER C. DODD, JR.,
KATHRYN M. HUNT, and LINDA
DODD FLUHARTY**
Intervening Defendants.

By: Patrick S. Casey
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